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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,720	09/30/2003	Teck Hu	2100.018000	3991

7590 12/12/2007  
Williams, Morgan & Amerson  
10333 Richmond, Suite 1100  
Houston, TX 77042

EXAMINER
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PHUONG, DAI

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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12/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/674,720

Applicant(s)

HU, TECK

Examiner

Dai A. Phuong

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2007 has been entered.

### *Response to Amendment*

2. Applicant's arguments, filed 10/30/2007, with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Claims 35-37 have been added in response filed on 10/30/2007. Claims 1-37 are currently pending.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1, 14, 26 and 35-37 recites "a multicast control message that indicates at least one of hardware or software functionality" (See amendment filed 10/30/2007). This is matter

not found in the specification as filed; therefore, it lacks support in the original disclosure.

Claims 2-13, 15-25 and 27-34 are rejected for the same reasons. See MPEP 706.03(o).

Applicant did not provide a concise explanation of where support for the newly added limitations can be found referring to the specification as originally filed by page and line number and to the drawing, if any, by reference characters.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 14 and 25-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Sato et al. (Pub. No: 20020003798).

Regarding claim 1, Sato et al. disclose a method of wireless communication comprising:  
receiving, at a mobile unit, a multicast control message that indicates at least one of hardware or software functionality required to be implemented in the mobile unit to enable the mobile unit to access and receive at least one multicast service (fig. 1, [0060] to [0062] and [0070] to [0076]);

determining, at the mobile unit, whether the mobile unit implements said functionality (fig. 1, [0060] to [0062] and [0070] to [0076]); and

selecting said at least one multicast service in response to determining that the mobile unit implements said functionality (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 2, Sato et al. disclose all the limitation in claim 1. Further, Sato et al. disclose the method comprising: transmitting subscription information, the received multicast control message corresponding with the transmitted subscription information (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 4, Sato et al. disclose all the limitation in claim 1. Further, Sato et al. disclose the method wherein the step of receiving a multicast control message comprises receiving the multicast control message during a multicast service setup prior to receiving multicast content (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 5, Sato et al. disclose all the limitation in claim 1. Further, Sato et al. disclose the method wherein the step of receiving a multicast control message is performed in real-time, while receiving multicast content (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 14, this claim is rejected for the same reason as set forth in claim 1.

Regarding claim 25, Sato et al. disclose all the limitations in claim 14. Further, Sato et al. disclose the method wherein receiving subscription information comprises receiving the subscription information from a mobile unit (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 26, this claim is rejected for the same reason as set forth in claim 1.

Regarding claim 27, Sato et al. disclose all the limitation in claim 26. Further, Sato et al. disclose the method wherein the functionality implemented in the mobile unit comprises *at least one of* a display system for conveying multimedia content to the user and channelization codes for accessing and receiving multicast services (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 28, this claim is rejected for the same reason as set forth in claim 2.

Regarding claim 29, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 30, this claim is rejected for the same reason as set forth in claim 4.

Regarding claim 31, this claim is rejected for the same reason as set forth in claim 5.

Regarding claim 35, Sato et al. disclose all the limitation in claim 1. Further, Sato et al. disclose the method comprising opting not to select said at least one multicast service in response to determining that at least one of the required hardware or software is not implemented on the mobile unit (fig. 1, [0060] to [0062] and [0070] to [0076]. It is inherent that if the mobile unit denies to implement the spreading code C1 and C2, then the mobile unit is unable to process multicast messages).

Regarding claim 36, this claim is rejected for the same reason as set forth in claim 35.

Regarding claim 37, this claim is rejected for the same reason as set forth in claim 35.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (Pub. No: 20020003798) in view of Shibata et al. (Pub. No: 20060195602).

Regarding claim 3, Sato et al. disclose all the limitation in claim 2. However, Sato et al. do not disclose the wherein the subscription information comprises at least one of multicast subscription type, payment authentication data, and billing information.

In the same field of endeavor, Shibata et al. disclose the wherein the subscription information comprises at least one of multicast subscription type, payment authentication data, and billing information ([0012] and [0025]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user terminal of Sato et al. by specifically including the subscription information comprises at least one of multicast subscription type, payment authentication data, and billing information, as taught by Shibata et al., the motivation being in order to increase the amount of information transmitted from the video server to the terminals and reduce a problem of a higher transmission cost.

8. Claims 6-13, 15-22 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (Pub. No: 20020003798) in view of Trossen et al. (Pub. No: 2003/0157899).

Regarding claim 6, Sato et al. disclose all the limitation in claim 1. However, Sato et al. do not disclose the wherein each multicast service corresponds with at least one multicast rate.

In the same field of endeavor, Trossen et al. disclose the wherein each multicast service corresponds with at least one multicast rate ([0033] and [0035]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user terminal of Sato et al. by specifically including each multicast service corresponds with at least one multicast rate, as taught by Sarkkinen et al., the motivation being in order to match data rate over the wireless channel.

Regarding claim 7, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 6. Further, Trossen et al. disclose the method wherein the multicast service is further selected in response to at least one subscriber resource ([0033] and [0035]).

Regarding claim 8, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 6. Further, Sato et al. disclose the method comprising: transmitting at least one feedback signal corresponding with the selected multicast service (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 9, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 8. Further, Sato et al. disclose the method wherein the at least one feedback signal conveys an access time to the selected multicast service (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 10, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 6. Further, Trossen et al. disclose the method wherein the multicast control message comprises *at least one of*: number of available multicast services ([0027]. Specifically, Tresson et al. disclose in the example shown in FIG. 1, 171, 172, and 173 are layers that are an address can be associated with one or more layers. Conversely, a layer can be associated with one or more addresses.) Layer 173 corresponds to the audio component, layer 172 corresponds to the first video component, and layer 171 corresponds to the second video component. Wireless terminal 101 processes all layers (audio layer 173 and both video layers 171 and 172). Thus, wireless terminal 101 displays fast motion video and plays the music of the Rolling Stone's performance. Wireless terminals 161 and 162 process only layers 172 and 173, and thus display



only the slow scan motion video and play the music); at least one resource threshold for each available multicast service ([0062]); at least one identifier for each available multicast service ([0027]); at least one radio access capability requirement for each available multicast service ([0027]); and notification of at least one of termination and continuation of multicast service ([0069]).

Regarding claim 11, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 10. Further, Trossen et al. disclose the method wherein the number of available multicast services are prioritized ([0027] and [0038]).

Regarding claim 12, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 10. Further, Trossen et al. disclose the method wherein the at least one resource threshold corresponds with at least one of allocated power and block error rate ("BLER") ([0033] and [0035]).

Regarding claim 13, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 6. Further, Trossen et al. disclose the method wherein the at least one identifier corresponds with at least one multicast rate associated with each of the number of available multicast services ([0033] and [0035]).

Regarding claim 15, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 16, this claim is rejected for the same reason as set forth in claim 10.

Regarding claim 17, this claim is rejected for the same reason as set forth in claim 12.

Regarding claim 18, this claim is rejected for the same reason as set forth in claim 6.

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 11.

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 13.

Regarding claim 21, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 22, this claim is rejected for the same reason as set forth in claim 9.

Regarding claim 23, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 21. Further, Sato et al. disclose the method wherein receiving said at least one feedback signal comprises receiving said at least one feedback signal in response to determining that the mobile unit implements the required functionality for accessing and receiving said at least one multicast service (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 24, the combination of Sato et al. and Trossen et al. disclose all the limitation in claim 23. Further, Sato et al. disclose the method wherein receiving said at least one feedback signal comprises receiving said at least one feedback signal in response to selecting the multicast service based on determining that the mobile unit implements the required functionality for accessing and receiving said at least one multicast service (fig. 1, [0060] to [0062] and [0070] to [0076]).

Regarding claim 32, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 33, this claim is rejected for the same reason as set forth in claim 9.

Regarding claim 34, this claim is rejected for the same reason as set forth in claim 10.

### Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nguyen M Duc can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7503.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dai Phuong  
AU: 2617  
Date: 12/05/2007



DUC M. NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600